

Bureau of Water General Information on Appeals

Purpose

This brochure is designed to help explain the steps to be followed in appealing the Bureau of Water staff's final permit decisions.

Notifying the public

The Bureau of Water of the Department of Health and Environmental Control has adopted a policy to notify all persons who signed the register at the public hearing along with those who submitted comments and/or petitions. The notification will be the staff's final decision, commonly referred to as a final determination. After a final determination, any affected party has fifteen (15) days to file a formal administrative appeal of the staff's decision. In your appeal you must:

1. Show that you have standing;
2. State the reasons why you disagree with the Department's decision;
3. Tell how you are adversely affected by the decision;
4. List the action(s) that you want the Department to take in lieu of its decision.

The final determination public notice will contain the specifics on how to request an adjudicatory hearing.

Staff's decision is appealed

Upon receipt of an appeal, the Department's legal office will forward the appeal to the Administrative Law Judge Division for assignment to an Administrative Law Judge (ALJ). The ALJ will determine whether to grant or deny the appeal. If the appeal is granted, the ALJ will hear the case under the procedures established by the "Administrative Procedures Act" (APA) for Contested cases in Volume 25, Code of Laws of South Carolina, 1976, Chapter 61, Rule 61-72, and the ALJ Division Procedures.

When an appealed is filed, the entire permit is stayed until the appeal process is completed unless determined otherwise by the ALJ.

What happens at the Adjudicatory Hearing?

In an adjudicatory hearing, the rules of circuit court generally apply. This means that depositions will be taken if necessary and also sworn testimony presented with witnesses being questioned by attorneys from each side. At the conclusion of the hearing, the ALJ will review the transcript and issue an order. All parties involved in the Adjudicatory Hearing have thirty (30) days to appeal the ALJ's decision to the DHEC Board.

Appeal of the Administrative Law Judge's Order to the DHEC Board

When the ALJ's decision is appealed, the Board has the option of accepting the ALJ's order or of making whatever decision it feels is necessary. At a regularly scheduled monthly Board meeting, the attorneys for each side will be given the opportunity to briefly state their case before the Board. The Board will then make the final decision for the agency. Following the Board's decision, any affected party has thirty (30) days to appeal. The appeal of the Board's decision is to a circuit court. The APA governs the appeal process. If an appeal is not filed in circuit court, the Board's decision will determine the final status of the proposed permit. If an appeal is filed, then the court's decision will determine the final status of the proposed permit.

No Appeal of ALJ's Order

If an appeal of the ALJ's decision is not made to the DHEC Board, the ALJ's decision is final. The ALJ's Order determines the final status of the proposed permit.

For More Information

To get information on appeals, contact:

Legal Office
SCDHEC
2600 Bull Street
Columbia, SC 29201
Telephone # (803) 898-3350

To obtain copies of permit determinations and other related information, contact:

Freedom of Information Administrator
SCDHEC
Freedom of Information Office
2600 Bull Street
Columbia, SC 29201
Telephone # (803) 898-3882